

## **EXHIBIT 28**

CONFIDENTIAL

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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In re Wells Fargo Mortgage ) Case No.  
Discrimination Litigation ) 3:22-CV-00990-JD

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-- C O N F I D E N T I A L --

VIDEOTAPED DEPOSITION OF MICHAEL WALLACE  
Tuesday, March 26, 2024  
Volume I

Reported by:

KATHLEEN E. BARNEY, CSR No. 5698, RPR

Job No. 6608917

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1 Fargo produced data is inaccurate.

2 Q Remaining term or principal and interest or  
3 both?

4 A Both. They're related.

5 Q And you did the same thing for Mr. Brown, 10:11:05  
6 yes?

7 A Yes.

8 Q Anybody else?

9 A Those are the ones that come to my mind --

10 Q Okay. 10:11:20

11 A -- that I can recall.

12 Q Are you offering an expert opinion on which  
13 of the putative class members were improperly denied  
14 for refinance based on their race?

15 A No. I don't believe I was asked to form any 10:11:46  
16 opinions on that, and I have not.

17 Q Okay. Are you offering an expert opinion on  
18 which of the putative class members were improperly  
19 denied a home purchase loan based on their race?

20 A Again, I'm not offering an opinion on 10:12:00  
21 discrimination. I'm offering an opinion on damages.

22 Q Are you offering an opinion on which of the  
23 putative class members were improperly denied a home  
24 equity line of credit, or HELOC, based on their  
25 race? 10:12:18

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1 A No.

2 Q If we can go back through your report --

3 A Would you mind if we took a quick break?

4 Q Oh, sure, of course. Five or ten minutes?

5 A Five is plenty. 10:12:39

6 THE VIDEOGRAPHER: The time is 10:12 and

7 we're going off the record.

8 (Recess.)

9 THE VIDEOGRAPHER: The time is 10:22 and

10 we're back on the record. 10:22:26

11 BY MS. MARTINEZ:

12 Q Okay. Mr. Wallace, I'd like for you to turn  
13 to paragraph 5 of your February 29th report, please.

14 A Okay.

15 Q Paragraph 5 says: 10:22:35

16 "The economic impact of Wells

17 Fargo's improper denial of the loan

18 applications can be reasonably

19 calculated on a class-wide or

20 subclass-wide basis using generally 10:22:47

21 accepted financial principles for

22 mortgage loans and common modeling

23 techniques for measuring economic

24 damages."

25 Am I correct in assuming that because you 10:22:57

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1 BY MS. MARTINEZ:

2 Q Right. Right. So it's the delta in approval  
3 rates, essentially, between white applicants and  
4 minority applicants after controlling for key  
5 underwriting factors, right? 01:14:10

6 MR. ELLIS: Objection. Mischaracterizes the  
7 report. Calls for speculation.

8 THE WITNESS: It's a delta which is an output  
9 of her regression model. I don't think it's quite  
10 the same as sort of a straight percentage comparison 01:14:20  
11 that one might think of as a difference in approval  
12 rates.

13 BY MS. MARTINEZ:

14 Q Do you know how you would apply the delta  
15 that has been calculated here by Dr. Kurzendoerfer 01:14:38  
16 into your damages analysis?

17 MR. ELLIS: Objection. Foundation.

18 THE WITNESS: Well, I haven't been asked to  
19 do that. I don't -- I'm not an expert at racial  
20 discrimination statistics. I also don't know 01:15:01  
21 exactly what the legal standard of proof is for  
22 proving discrimination.

23 So I can't tell you that I would apply these  
24 percentages to my damage figures. I think  
25 ultimately the court and the trier of fact, by 01:15:19

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1 examining all the evidence, will decide to what  
2 extent any or all of the 119,100 putative class  
3 members were discriminated against, and then my  
4 figures could then be used for any or each of them.

5 BY MS. MARTINEZ:

01:15:41

6 Q Sitting here today, you don't know or you  
7 don't have an opinion as to which of those 119,000  
8 putative class members then would fall within the  
9 parameters that are set forth in Dr. Kurzendoerfer's  
10 report on page 5?

01:15:58

11 MR. ELLIS: Objection. Foundation.

12 Mischaracterizes the report. Legal conclusion.

13 THE WITNESS: So I don't believe -- I'm not  
14 aware, and I can't testify for Dr. Kurzendoerfer,  
15 but I'm not aware that she has identified  
16 specifically individuals who were discriminated  
17 against. I believe she has identified the  
18 probability that they would have been approved if  
19 they were white, given the same circumstances for  
20 each individual. And how that will ultimately be  
21 applied by the court, I don't know.

01:16:15

01:16:33

22 I have seen Ms. Irwin's use of these figures  
23 in trying to combine them and apply them to my  
24 analysis, so I understand that approach  
25 mathematically, but I'm not offering an opinion that

01:16:54

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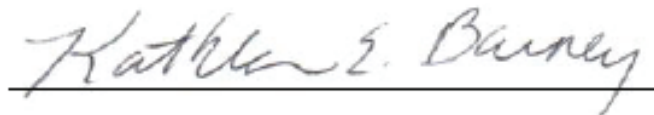
1  
2  
3 I, the undersigned, a Certified Shorthand  
4 Reporter of the State of California, do hereby  
5 certify:

6 That the foregoing proceedings were taken  
7 before me at the time and place herein set forth;  
8 that any witnesses in the foregoing proceedings,  
9 prior to testifying, were placed under oath; that a  
10 record of the proceedings was made by me using  
11 machine shorthand which was thereafter transcribed  
12 under my direction; further, that the foregoing is  
13 an accurate transcription thereof.

14 I further certify that I am neither  
15 financially interested in the action nor a relative  
16 or employee of any attorney of any of the parties.

17 IN WITNESS WHEREOF, I have this date  
18 subscribed my name.

19  
20 Dated: March 29, 2024

21  
22   
23

24 KATHLEEN E. BARNEY

25 CSR No. 5698

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